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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION**

GENENTECH, INC.,

 Plaintiff,

 vs.

 THE TRUSTEES OF THE UNIVERSITY OF
 PENNSYLVANIA, a Pennsylvania non-profit
 corporation,

 Defendant.

) Case No: 5:10-CV-2037-LHK (PSG)
)
) **FIFTH JOINT STIPULATION AND**
) **ORDER TO EXTEND THE**
) **DEADLINES FOR (A) COMPLIANCE**
) **WITH A PORTION OF THE COURT'S**
) **NOVEMBER 22 ORDER AND (B) TO**
) **MOVE TO RECONSIDER THE**
) **COURT'S ORDER**
)
) **Hearing Date: TBD**
) **Time: TBD**
) **Judge: Hon. Magistrate Paul S. Grewal**
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1 WHEREAS on January 11, 2011, plaintiff Genentech, Inc. ("Genentech") and defendant the
2 Trustees of the University of Pennsylvania ("the University") filed a Fourth Joint Stipulation and
3 Proposed Order to Extend the Deadline for Compliance with a portion of the Court's November 22
4 Order (Dkt. No. 79) from January 11, 2011 to February 1, 2011; and

5 WHEREAS the parties wanted the deadline extension to discuss whether there is a way to
6 limit Genentech's production of regulatory materials, other than the BLA Submissions (as that term
7 is used in the Court's November 22 Order), to avoid the production of irrelevant materials; and

8 WHEREAS, the parties are continuing to address the proper scope for production of the
9 regulatory materials and believe that an additional extension would benefit their discussion; and

10 WHEREAS, the parties are continuing to arrange an appropriate manner in which to proceed
11 with the production; and

12 WHEREAS, if the parties are unable to reach agreement, Genentech reserves the right to
13 move for reconsideration of the Court's Order;

14 THE PARTIES THEREFORE AGREE as follows:

- 15 1. The deadline for Genentech to comply with the following sentence in the Court's
16 November 22, 2010 Order, now set for February 1, 2011, is extended an additional
17 two weeks to February 15, 2011:

18 "In addition, to the extent there is responsive electronic data other than
19 the BLA Submissions in Defendant's possession, custody or control
20 that is responsive to Document Request No. 36, Plaintiff shall either
21 produce the unredacted data to Defendant by November 30, 2010, or
22 else file a declaration by that date showing why it cannot do so and
23 setting forth the earliest possible date that it will be able to do so."

- 24 2. The deadline for Genentech to file a Motion for Reconsideration of the Court's Order,
25 now set for February 1, 2011, is extended an additional two weeks to February 15,
26 2011.
27 3. No other provision of the Court's November 22, 2010 Order is changed.
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1 SO STIPULATED:

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3 Respectfully submitted,

4 Dated: February 1, 2011

SIDLEY AUSTIN LLP

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7 By: /s/
M. PATRICIA THAYER

8 Attorneys for Plaintiff GENENTECH, INC.

9
10 Dated: February 1, 2011

IRELL & MANELLA LLP

11
12 By: /s/
13 GARY N. FRISCHLING¹

14 Attorneys for Defendants THE TRUSTEES OF
15 THE UNIVERSITY OF PENNSYLVANIA

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27 ¹ Pursuant to General Order 45(X), the filer of this document hereby attests that concurrence in the filing of the
28 document has been obtained from Gary N. Frischling.

PURSUANT TO STIPULATION, IT IS HEREBY ORDERED that:

1. The deadline for Genentech to comply with the following sentence in the Court's November 22, 2010 Order, now set for February 1, 2011, is extended an additional two weeks to February 15, 2011:

"In addition, to the extent there is responsive electronic data other than the BLA Submissions in Defendant's possession, custody or control that is responsive to Document Request No. 36, Plaintiff shall either produce the unredacted data to Defendant by November 30, 2010, or else file a declaration by that date showing why it cannot do so and setting forth the earliest possible date that it will be able to do so."

2. The deadline for Genentech to file a Motion for Reconsideration of the Court's Order, now set for February 1, is extended an additional two weeks to February 15, 2011.
3. No other provision of the Court's November 22, 2010 Order is changed.

SO ORDERED.

Dated: February 2, 2011


PAUL S GREWAL
United States Magistrate Judge